



Senate

General Assembly

File No. 546

February Session, 2004

Substitute Senate Bill No. 35

Senate, April 13, 2004

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET
RECOMMENDATIONS REGARDING REVENUE, TOBACCO PRODUCT
MANUFACTURERS AND TRANSFERS OF CERTAIN FUNDS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-412 of the general statutes, as amended by
2 section 98 of public act 03-1 of the June 30 special session, is amended
3 by adding subdivision (115) as follows (*Effective July 1, 2005*):

4 (NEW) (115) (A) Sales of magazines, including publications which
5 only contain puzzles, by subscription; (B) sales of newspapers.

6 Sec. 2. Subsection (c) of section 12-494 of the general statutes, as
7 amended by section 40 of public act 03-2, is repealed and the following
8 is substituted in lieu thereof (*Effective from passage*):

9 (c) In addition to the tax imposed under subsection (a) of this
10 section, any targeted investment community, as defined in section 32-

11 222, or any municipality in which properties designated as
12 manufacturing plants under section 32-75c are located, may, on or after
13 March 15, 2003, [but prior to July 1, 2004,] impose an additional tax on
14 each deed, instrument or writing, whereby any lands, tenements or
15 other realty is granted, assigned, transferred or otherwise conveyed to,
16 or vested in, the purchaser, or any other person by his direction, when
17 the consideration for the interest or property conveyed equals or
18 exceeds two thousand dollars, which additional tax shall be at the rate
19 of one-fourth of one per cent of the consideration for the interest in real
20 property conveyed by such deed, instrument or writing. The revenue
21 from such additional tax shall become part of the general revenue of
22 the municipality in accordance with section 12-499.

23 Sec. 3. Subdivision (2) of subsection (a) of section 12-458 of the
24 general statutes is repealed and the following is substituted in lieu
25 thereof (*Effective from passage*):

26 (2) On said date and coincident with the filing of such return each
27 distributor shall pay to the commissioner for the account of the
28 purchaser or consumer a tax (A) on each gallon of such fuels sold or
29 used in this state during the preceding calendar month of twenty-six
30 cents on and after January 1, 1992, twenty-eight cents on and after
31 January 1, 1993, twenty-nine cents on and after July 1, 1993, thirty cents
32 on and after January 1, 1994, thirty-one cents on and after July 1, 1994,
33 thirty-two cents on and after January 1, 1995, thirty-three cents on and
34 after July 1, 1995, thirty-four cents on and after October 1, 1995, thirty-
35 five cents on and after January 1, 1996, thirty-six cents on and after
36 April 1, 1996, thirty-seven cents on and after July 1, 1996, thirty-eight
37 cents on and after October 1, 1996, thirty-nine cents on and after
38 January 1, 1997, thirty-six cents on and after July 1, 1997, thirty-two
39 cents on and after July 1, 1998, and twenty-five cents on and after July
40 1, 2000; and (B) in lieu of said taxes, each distributor shall pay a tax on
41 each gallon of gasohol, as defined in section 14-1, sold or used in this
42 state during such preceding calendar month, of twenty-five cents on
43 and after January 1, 1992, twenty-seven cents on and after January 1,
44 1993, twenty-eight cents on and after July 1, 1993, twenty-nine cents on

45 and after January 1, 1994, thirty cents on and after July 1, 1994, thirty-
46 one cents on and after January 1, 1995, thirty-two cents on and after
47 July 1, 1995, thirty-three cents on and after October 1, 1995, thirty-four
48 cents on and after January 1, 1996, thirty-five cents on and after April
49 1, 1996, thirty-six cents on and after July 1, 1996, thirty-seven cents on
50 and after October 1, 1996, thirty-eight cents on and after January 1,
51 1997, thirty-five cents on and after July 1, 1997, thirty-one cents on and
52 after July 1, 1998, and twenty-four cents on and after July 1, 2000, and
53 twenty-five cents on and after July 1, 2004; and (C) in lieu of such rate,
54 on each gallon of diesel fuel, propane or natural gas sold or used in
55 this state during such preceding calendar month, of eighteen cents on
56 and after September 1, 1991, and twenty-six cents on and after August
57 1, 2002.

58 Sec. 4. Section 13b-61a of the general statutes, as amended by section
59 65 of public act 03-1 of the June 30 special session, is repealed and the
60 following is substituted in lieu thereof (*Effective July 1, 2004*):

61 Notwithstanding the provisions of section 13b-61, as amended, for
62 calendar quarters ending on or after September 30, 1998, and prior to
63 September 30, 1999, the Commissioner of Revenue Services shall
64 deposit into the Special Transportation Fund established under section
65 13b-68, as amended, five million dollars of the amount of funds
66 received by the state from the tax imposed under section 12-587 on the
67 gross earnings from the sales of petroleum products attributable to
68 sales of motor vehicle fuel, for calendar quarters ending September 30,
69 1999, and prior to September 30, 2000, the commissioner shall deposit
70 into the Special Transportation Fund nine million dollars of the
71 amount of such funds received by the state from the tax imposed
72 under said section 12-587 on the gross earnings from the sales of
73 petroleum products attributable to sales of motor vehicle fuel; for
74 calendar quarters ending September 30, 2000, and prior to September
75 30, 2002, the commissioner shall deposit into the Special
76 Transportation Fund eleven million five hundred thousand dollars of
77 the amount of such funds received by the state from the tax imposed
78 under said section 12-587, on the gross earnings from the sales of

79 petroleum products attributable to sales of motor vehicle fuel, for the
80 calendar quarters ending September 30, 2002, and prior to September
81 30, 2003, the commissioner shall make no deposit into the Special
82 Transportation Fund, [five million dollars of the amount of such funds
83 received by the state from the tax imposed under said section 12-587
84 on the gross earnings from the sales of petroleum products attributable
85 to sales of motor vehicle fuel, and for the calendar quarter ending
86 September 30, 2003, and each calendar quarter thereafter, the
87 commissioner shall deposit into the Special Transportation Fund, five
88 million two hundred fifty thousand dollars of the amount of such
89 funds received by the state from the tax imposed under said section 12-
90 587 on the gross earnings from the sales of petroleum products
91 attributable to sales of motor vehicle fuel] for the calendar quarters
92 ending September 30, 2003, and prior to September 30, 2004, the
93 commissioner shall deposit into the Special Transportation Fund, two
94 million six hundred twenty-five thousand dollars of the amount of
95 such funds received by the state from the tax imposed under said
96 section 12-587 on the gross earnings from the sales of petroleum
97 products attributable to sales of motor vehicle fuel, and for the
98 calendar quarter ending September 30, 2004, and each calendar quarter
99 thereafter, the commissioner shall deposit into the Special
100 Transportation Fund, two million dollars of the amount of such funds
101 received by the state from the tax imposed under said section 12-587
102 on the gross earnings from the sales of petroleum products attributable
103 to sales of motor vehicle fuel.

104 Sec. 5. (NEW) (*Effective July 1, 2004*) Notwithstanding any provision
105 of the general statutes, for the fiscal year ending June 30, 2005, five
106 hundred thousand dollars of the balance of the Tobacco and Health
107 Trust Fund shall be transferred to the Children's Health Initiative
108 account in the Department of Public Health to continue support for the
109 Easy Breathing Program and any remaining balance in the Tobacco
110 and Health Trust Fund shall be credited to the resources of the General
111 Fund.

112 Sec. 6. (NEW) (*Effective July 1, 2004*) Notwithstanding any provision

113 of the general statutes, for the fiscal year ending June 30, 2005, the sum
114 of one million five hundred thousand dollars shall be transferred to the
115 resources of the General Fund from the pretrial account established
116 under section 54-56k of the general statutes.

117 Sec. 7. (NEW) (*Effective October 1, 2004*) As used in sections 7 to 14,
118 inclusive, of this act:

119 (1) "Brand family" means all styles of cigarettes sold under the same
120 trade mark and differentiated from one another by means of additional
121 modifiers or descriptors, including, but not limited to, menthol, lights,
122 kings and 100's, and includes any use of a brand name, alone or in
123 conjunction with any other word, trademark, logo, symbol, motto,
124 selling message, recognizable pattern of colors, or any other indicia of
125 product identification identical or similar to, or identifiable with, a
126 previously known brand of cigarettes;

127 (2) "Cigarette" has the same meaning as provided in section 4-28h
128 of the general statutes;

129 (3) "Commissioner" means the Commissioner of Revenue Services;

130 (4) "Nonparticipating manufacturer" means any tobacco product
131 manufacturer that is not a participating manufacturer;

132 (5) "Participating manufacturer" has the meaning as provided in
133 section II(jj) of the Master Settlement Agreement, as defined in section
134 4-28h of the general statutes, and all amendments thereto;

135 (6) "Qualified escrow fund" has the same meaning as provided in
136 section 4-28h of the general statutes;

137 (7) "Stamper" means, in the case of cigarettes other than roll-your-
138 own tobacco, a person that under chapter 214 of the general statutes
139 may lawfully purchase unstamped packages of cigarettes and affix
140 Connecticut cigarette tax stamps to such packages, and, in the case of
141 roll-your-own tobacco, a person licensed as a distributor under chapter
142 214a of the general statutes and required to pay the tax due on such

143 tobacco under said chapter 214a;

144 (8) "Tobacco product manufacturer" has the same meaning as
145 provided in section 4-28h of the general statutes; and

146 (9) "Units sold" has the same meaning as provided in section 4-28h
147 of the general statutes.

148 Sec. 8. (NEW) (*Effective October 1, 2004*) (a) Any tobacco product
149 manufacturer whose cigarettes are sold in this state, whether directly
150 or through a distributor, retailer or similar intermediary or
151 intermediaries, shall execute a certification annually on a form
152 prescribed by the commissioner, certifying under penalty of law for
153 false statement that, as of the date of such certification, such tobacco
154 product manufacturer is either a participating manufacturer or is in
155 full compliance with the provisions of sections 4-28h to 4-28j, inclusive,
156 of the general statutes. Such tobacco product manufacturer shall
157 deliver such certificate to the commissioner and Attorney General no
158 later than April thirtieth of each year. Each tobacco product
159 manufacturer shall maintain all invoices and documentation of sales
160 and other such information relied upon for such certification for a
161 period of five years unless otherwise required by law to maintain them
162 for a longer period of time.

163 (b) If a tobacco product manufacturer is a participating
164 manufacturer, such manufacturer shall include in its certification a list
165 of its brand families. The participating manufacturer shall update such
166 list thirty days prior to any addition to, or modification of, its brand
167 families by executing and delivering a supplemental certification to the
168 Attorney General and the commissioner.

169 (c) If the tobacco product manufacturer is a nonparticipating
170 manufacturer, such manufacturer shall include in its certification: (1) A
171 list of all of its brand families and the number of units of each brand
172 family that were sold in the state during the preceding calendar year;
173 (2) a list of all of its brand families that have been sold in the state at
174 any time during the current calendar year; (3) an indication, by an

175 asterisk, of any brand family sold in the state during the preceding
176 calendar year that is no longer being sold in the state as of the date of
177 such certification; and (4) the name and address of any other
178 manufacturer of such brand families in the preceding or current
179 calendar year. Each nonparticipating manufacturer shall update such
180 list thirty days prior to any addition to, or modification of, its brand
181 families by executing and delivering a supplemental certification to the
182 Attorney General and the commissioner.

183 (d) If the tobacco product manufacturer is a nonparticipating
184 manufacturer, such manufacturer shall further (1) certify that such
185 nonparticipating manufacturer is registered to do business in this state
186 pursuant to title 33 or 34 of the general statutes as a foreign
187 corporation or business entity or has appointed an agent for service of
188 process and provided notice thereof as required by section 10 of this
189 act, (2) certify that such nonparticipating manufacturer has established
190 and continues to maintain a qualified escrow fund and has executed a
191 qualified escrow agreement that governs the qualified escrow fund, (3)
192 certify that such nonparticipating manufacturer is in full compliance
193 with the provisions of sections 4-28h to 4-28j, inclusive, of the general
194 statutes and sections 7 to 14, inclusive, of this act, and any regulations
195 adopted under sections 4-28h to 4-28j, inclusive, of the general statutes
196 and sections 7 to 14, inclusive, of this act, and (4) provide (A) the name,
197 address and telephone number of the financial institution where the
198 nonparticipating manufacturer has established such qualified escrow
199 fund required pursuant to the provisions of sections 4-28h to 4-28j,
200 inclusive, of the general statutes and all regulations adopted under
201 sections 4-28h to 4-28j, inclusive, of the general statutes; (B) the account
202 number of such qualified escrow fund and subaccount number for the
203 state of Connecticut; (C) the amount that such nonparticipating
204 manufacturer placed in such fund for cigarettes sold in the state during
205 the preceding calendar year, the date and amount of each such deposit,
206 and such evidence or verification as may be deemed necessary by the
207 commissioner or the Attorney General, to confirm the foregoing; and
208 (D) the amounts of and dates of any withdrawal or transfer of funds
209 the nonparticipating manufacturer made at any time from such fund

210 or from any other qualified escrow fund into which it ever made
211 escrow payments pursuant to the provisions of sections 4-28h to 4-28j,
212 inclusive, of the general statutes and all regulations adopted under
213 sections 4-28h to 4-28j, inclusive, of the general statutes.

214 (e) A tobacco product manufacturer may not include in its
215 certification a brand family unless (1) in the case of a participating
216 manufacturer, the participating manufacturer affirms that the brand
217 family is to be deemed to be its cigarettes for purposes of calculating
218 its payments under the Master Settlement Agreement for the relevant
219 year, in the volume and shares determined pursuant to the Master
220 Settlement Agreement; and (2) in the case of a nonparticipating
221 manufacturer, such nonparticipating manufacturer affirms that the
222 brand family is to be deemed to be its cigarettes for purposes of
223 sections 4-28h to 4-28j, inclusive, of the general statutes. Nothing in
224 this section shall be construed as limiting or otherwise affecting the
225 state's right to maintain that a brand family constitutes cigarettes of a
226 different tobacco product manufacturer for purposes of calculating
227 payments under the Master Settlement Agreement or for purposes of
228 sections 4-28h to 4-28j, inclusive, of the general statutes.

229 Sec. 9. (NEW) (*Effective October 1, 2004*) (a) (1) Not later than July 1,
230 2005, the commissioner shall develop and make available for public
231 inspection, on the Department of Revenue Services' website and in
232 such other forms as the commissioner deems appropriate, a directory
233 listing of all tobacco product manufacturers that have provided
234 current and accurate certifications conforming to the requirements of
235 section 8 of this act and all brand families that are listed in such
236 certifications. The commissioner shall update the directory as
237 necessary in order to correct mistakes and to add or remove a tobacco
238 product manufacturer or brand family to keep the directory current
239 and in conformity with the requirements of sections 7 to 14, inclusive,
240 of this act.

241 (2) The commissioner shall not include or retain in such directory
242 the name or brand families of any manufacturer that has failed to

243 provide the required certification or whose certification the
244 commissioner determines is not in compliance with the provisions of
245 section 8 of this act, unless such violation has been remedied to the
246 satisfaction of the commissioner.

247 (3) The commissioner shall not include or retain in the directory any
248 brand family of a nonparticipating manufacturer if the commissioner
249 concludes: (A) All escrow payments required pursuant to the
250 provisions of sections 4-28h to 4-28j, inclusive, of the general statutes
251 for any period for any brand family, whether or not listed by such
252 nonparticipating manufacturer, have not been fully paid into a
253 qualified escrow fund governed by a qualified escrow agreement that
254 has been approved by the Attorney General, or (B) any outstanding
255 final judgment, including interest thereon, for a violation of sections 4-
256 28h to 4-28j, inclusive, of the general statutes has not been fully
257 satisfied for such brand family and such manufacturer.

258 (b) It shall be unlawful for any person:

259 (1) To affix a tax stamp to a package or other container of cigarettes
260 of a tobacco product manufacturer or brand family not included in the
261 directory; and

262 (2) To sell, offer, possess for sale or distribute in this state, cigarettes
263 of a tobacco product manufacturer or brand family not included in the
264 directory.

265 (c) A violation of subsection (b) of this section shall be a class A
266 misdemeanor.

267 (d) Any person who violates subsection (b) of this section engages in
268 an unfair and deceptive trade practice in violation of section 42-110b of
269 the general statutes.

270 (e) A determination by the commissioner not to include a brand
271 family or tobacco product manufacturer in the directory maintained
272 pursuant to this section or to remove such brand family or
273 manufacturer from the directory shall be subject to review in the

274 manner prescribed by section 12-311 of the general statutes.

275 Sec. 10. (NEW) (*Effective October 1, 2004*) (a) Any nonparticipating
276 manufacturer that has not registered to do business in this state,
277 pursuant to title 33 or 34 of the general statutes, as a foreign
278 corporation or business entity shall, as a condition precedent to having
279 its brand families listed or retained in the directory maintained
280 pursuant to section 9 of this act, appoint and continually engage
281 without interruption the services of an agent in this state to act as
282 agent for the service of process on whom all process and any action or
283 proceeding against it concerning or arising out of the enforcement of
284 the provisions of sections 7 to 14, inclusive, of this act and the
285 provisions of sections 4-28h to 4-28j, inclusive, of the general statutes
286 may be served in any manner authorized by law. Such service shall
287 constitute legal and valid service of process on the nonparticipating
288 manufacturer. The nonparticipating manufacturer shall provide the
289 name, address, telephone number and proof of the appointment and
290 availability of such agent to, and to the satisfaction of, the
291 commissioner and the Attorney General.

292 (b) A nonparticipating manufacturer shall provide notice to the
293 commissioner and the Attorney General at least thirty calendar days
294 prior to termination of the authority of an agent and shall further
295 provide proof, to the satisfaction of the commissioner and the Attorney
296 General, of the appointment of a new agent no less than five calendar
297 days prior to the termination of an existing agent appointment. In the
298 event an agent terminates an agency, the nonparticipating
299 manufacturer shall notify the commissioner and the Attorney General
300 of such termination not later than five calendar days after such
301 termination and shall include proof, to the satisfaction of the
302 commissioner and the Attorney General, of the appointment of a new
303 agent.

304 (c) Any nonparticipating manufacturer whose products are sold in
305 this state without appointing or designating an agent as required in
306 this section shall be deemed to have appointed the Secretary of the

307 State as such agent and may be proceeded against in courts of this state
308 by service of process upon the Secretary of the State, except that the
309 appointment of the Secretary of the State as such agent shall not satisfy
310 the condition precedent to having the brand families of the
311 nonparticipating manufacturer listed or retained in the directory.

312 Sec. 11. (NEW) (*Effective January 1, 2005*) (a) Not later than twenty-
313 five days after the end of each month, and more frequently if so
314 directed by the commissioner, each stamper shall submit such
315 information as the commissioner requires to facilitate compliance with
316 sections 7 to 14, inclusive, of this act, including, but not limited to, a list
317 by brand family of the total number of cigarettes, or in the case of roll-
318 your-own tobacco, the equivalent stick count, for which the stamper
319 affixed stamps during the previous month. The stamper shall
320 maintain, and make available to the commissioner for a period of five
321 years, all invoices and documentation of purchases and sales of all
322 nonparticipating manufacturer cigarettes and any other information
323 relied upon in reporting to the commissioner. Each stamper shall
324 provide and update as necessary an electronic mail address to the
325 commissioner.

326 (b) The commissioner may disclose to the Attorney General any
327 information received under sections 7 to 14, inclusive, of this act and
328 requested by the Attorney General for purposes of determining
329 compliance with and enforcing the provisions of sections 7 to 14,
330 inclusive, of this act. The commissioner and the Attorney General shall
331 share with each other the information received under sections 7 to 14,
332 inclusive, of this act, and may share such information with other
333 federal, state or local agencies only for purposes of enforcement of
334 sections 7 to 14, inclusive, of this act, the provisions of sections 4-28h to
335 4-28j, inclusive, of the general statutes or corresponding laws of other
336 states.

337 (c) The Attorney General may require at any time from a
338 nonparticipating manufacturer proof of the amount of money in the
339 qualified escrow fund maintained by such manufacturer for the

340 purpose of compliance with provisions of sections 4-28h to 4-28j,
341 inclusive, of the general statutes. Such proof shall be provided to such
342 manufacturer by the financial institution in which such manufacturer
343 has established such fund. Such proof shall include the amount of
344 money in such fund, exclusive of interest, the amount and date of each
345 deposit to such fund and the amount and date of each withdrawal
346 from such fund.

347 (d) In addition to the information requested to be submitted
348 pursuant to subsection (a) of this section and section 8 of this act, the
349 commissioner may require a stamper or tobacco product manufacturer
350 to submit any additional information including, but not limited to,
351 samples of the packaging or labeling of each brand family, as is
352 necessary to enable the Attorney General to determine whether a
353 tobacco product manufacturer is in compliance with the provisions of
354 sections 7 to 14, inclusive, of this act.

355 (e) To promote compliance with the provisions of sections 7 to 14,
356 inclusive, of this act, the commissioner may adopt regulations, in
357 accordance with the provisions of chapter 54 of the general statutes,
358 requiring a tobacco product manufacturer subject to the requirements
359 of subsection (c) of section 8 of this act to make the escrow deposits
360 required in quarterly installments during the year in which the sales
361 covered by such deposits are made. The commissioner may require
362 production of information sufficient to enable the commissioner to
363 determine the adequacy of the amount of the installment deposit.

364 Sec. 12. (NEW) (*Effective October 1, 2004*) (a) In addition to any other
365 civil or criminal remedy provided by law, upon a determination that a
366 stamper has violated subsection (b) of section 9 of this act or any
367 regulation adopted under sections 7 to 14, inclusive, of this act, the
368 commissioner, after a hearing, may revoke or suspend the license of
369 such stamper in the manner provided by section 12-295 of the general
370 statutes. Each stamp affixed and each offer to sell cigarettes in
371 violation of subsection (b) of section 9 of this act shall constitute a
372 separate violation. The commissioner may also assess such stamper a

373 civil penalty in an amount not to exceed the greater of five hundred
374 per cent of the retail value of the cigarettes, or five thousand dollars,
375 upon a determination of violation of subsection (b) of section 9 of this
376 act.

377 (b) Any cigarettes that have been sold, offered for sale or possessed
378 for sale in this state, in violation of subsection (b) of section 9 of this act
379 shall be deemed contraband goods under section 12-305 of the general
380 statutes and such cigarettes shall be subject to seizure as provided in
381 section 12-305 of the general statutes. All such cigarettes so seized shall
382 be destroyed and not resold.

383 (c) The Attorney General, on behalf of the commissioner, may seek
384 an injunction to restrain a threatened or actual violation of subsection
385 (b) of section 9 of this act or subsections (a) or (d) of section 11 of this
386 act by a stamper and to compel the stamper to comply with said
387 subsections. The commissioner may adopt regulations, in accordance
388 with the provisions of chapter 54 of the general statutes, to effect the
389 purposes of this section.

390 Sec. 13. (NEW) (*Effective October 1, 2004*) (a) In any action brought by
391 the state to enforce the provisions of sections 7 to 12, inclusive, of this
392 act, the state shall be entitled to recover, when it is the prevailing
393 party, the costs of investigation, expert witness fees, costs of the action
394 and reasonable attorneys' fees.

395 (b) If a court determines that a person has violated the provisions of
396 sections 7 to 12, inclusive, of this act, the court shall order any profits,
397 gains, gross receipts or other benefits from the violation to be paid to
398 the state. Unless otherwise expressly provided in sections 7 to 12,
399 inclusive, of this act, the remedies or penalties provided by sections 7
400 to 12, inclusive, of this act are cumulative to each other and to the
401 remedies or penalties available under all other laws of this state.

402 (c) No person shall be issued a license or granted a renewal of a
403 license to act as a stamper unless such person has certified in writing,
404 under penalty for false statements, that such person will comply with

405 sections 7 to 12, inclusive, of this act.

406 Sec. 14. (NEW) (*Effective October 1, 2004*) If a court of competent
407 jurisdiction finds that the provisions of sections 7 to 14, inclusive, of
408 this act and sections 4-28h to 4-28j, inclusive, of the general statutes
409 conflict and cannot be reconciled, then sections 4-28h to 4-28j,
410 inclusive, of the general statutes shall supersede the provisions of
411 sections 7 to 14, inclusive, of this act. If any section, subsection,
412 subdivision, subparagraph, sentence, clause or phrase of sections 7 to
413 14, inclusive, of this act causes sections 4-28h to 4-28j, inclusive, of the
414 general statutes to no longer constitute a qualifying or model statute,
415 as those terms are defined in the Master Settlement Agreement, then
416 that portion of sections 7 to 14, inclusive, of this act shall not be valid.
417 If any section, subsection, subdivision, subparagraph, sentence, clause
418 or phrase of sections 7 to 14, inclusive, of this act is for any reason held
419 to be invalid, unlawful or unconstitutional, such decision shall not
420 affect the validity of the remaining portions of sections 7 to 14,
421 inclusive, of this act or any part thereof.

422 Sec. 15. Subsection (b) of section 4-28i of the general statutes is
423 repealed and the following is substituted in lieu thereof (*Effective July*
424 *1, 2004*):

425 (b) A tobacco product manufacturer that places funds into escrow
426 pursuant to subsection (a) of this section shall receive the interest, or
427 other appreciation on such funds, as earned. Such funds shall be
428 released from escrow only (1) to pay a judgment or settlement on any
429 released claim brought against such tobacco product manufacturer by
430 the state or any releasing party located or residing in the state. Funds
431 shall be released from escrow under this subdivision in the order in
432 which the funds were placed into escrow and only to the extent and at
433 such time as is necessary to make payments required under such
434 judgment or settlement; (2) to the extent that a tobacco product
435 manufacturer establishes that the amount it was required to place into
436 escrow on account of units sold in this state in a particular year was
437 greater than [the state's allocable share of the total payments that such

438 manufacturer would have been required to make in that year under
439 the Master Settlement Agreement had it been a participating
440 manufacturer, as such payments are determined pursuant to section
441 IX(i)(2) of that Master Settlement Agreement and before any of the
442 adjustments or offsets described in section IX(i)(3) of that agreement
443 other than the inflation adjustment] the Master Settlement Agreement
444 payments, as determined pursuant to section IX(i) of said agreement
445 including after final determinations of all adjustments, that such
446 manufacturer would have been required to make on account of such
447 units sold had it been a participating manufacturer, the excess shall be
448 released from escrow and revert back to [that] such tobacco product
449 manufacturer; or (3) to the extent not released from escrow under
450 subdivision (1) or (2) of this subsection, funds shall be released from
451 escrow and revert back to such tobacco product manufacturer twenty-
452 five years after the date on which such funds were placed into escrow.

453 Sec. 16. (*Effective from passage*) If a court of competent jurisdiction
454 holds that subdivision (2) of subsection (b) of section 4-28i of the
455 general statutes, as amended by section 15 of this act, is
456 unconstitutional, then the amendment to said subsection made by said
457 section 15 shall not be given effect.

458 Sec. 17. Section 4-28e of the general statutes is amended by adding
459 subsection (f) as follows (*Effective July 1, 2004*):

460 (NEW) (f) For the fiscal year ending June 30, 2005, and each fiscal
461 year thereafter, the sum of one hundred thousand dollars is
462 appropriated to the Department of Revenue Services and the sum of
463 twenty-five thousand dollars is appropriated to the office of the
464 Attorney General for the enforcement of the provisions of sections 7 to
465 13, inclusive, of this act and sections 4-28h to 4-28j, inclusive.

466 Sec. 18. Subsection (b) of section 12-15 of the general statutes, as
467 amended by section 238 of public act 03-6 of the June 30 special
468 session, is repealed and the following is substituted in lieu thereof
469 (*Effective from passage*):

470 (b) The commissioner may disclose (1) returns or return information
471 to (A) an authorized representative of another state agency or office,
472 upon written request by the head of such agency or office, when
473 required in the course of duty or when there is reasonable cause to
474 believe that any state law is being violated, or (B) an authorized
475 representative of an agency or office of the United States, upon written
476 request by the head of such agency or office, when required in the
477 course of duty or when there is reasonable cause to believe that any
478 federal law is being violated, provided no such agency or office shall
479 disclose such returns or return information, other than in a judicial or
480 administrative proceeding to which such agency or office is a party
481 pertaining to the enforcement of state or federal law, as the case may
482 be, in a form which can be associated with, or otherwise identify,
483 directly or indirectly, a particular taxpayer except that the names and
484 addresses of jurors or potential jurors and the fact that the names were
485 derived from the list of taxpayers pursuant to chapter 884 may be
486 disclosed by the judicial branch; (2) returns or return information to
487 the Auditors of Public Accounts, when required in the course of duty
488 under chapter 23; (3) returns or return information to tax officers of
489 another state or of a Canadian province or of a political subdivision of
490 such other state or province or of the District of Columbia or to any
491 officer of the United States Treasury Department or the United States
492 Department of Health and Human Services, authorized for such
493 purpose in accordance with an agreement between this state and such
494 other state, province, political subdivision, the District of Columbia or
495 department, respectively, when required in the administration of taxes
496 imposed under the laws of such other state, province, political
497 subdivision, the District of Columbia or the United States, respectively,
498 and when a reciprocal arrangement exists; (4) returns or return
499 information in any action, case or proceeding in any court of
500 competent jurisdiction, when the commissioner or any other state
501 department or agency is a party, and when such information is directly
502 involved in such action, case or proceeding; (5) returns or return
503 information to a taxpayer or its authorized representative, upon
504 written request for a return filed by or return information on such

505 taxpayer; (6) returns or return information to a successor, receiver,
506 trustee, executor, administrator, assignee, guardian or guarantor of a
507 taxpayer, when such person establishes, to the satisfaction of the
508 commissioner, that such person has a material interest which will be
509 affected by information contained in such returns or return
510 information; (7) information to the assessor or an authorized
511 representative of the chief executive officer of a Connecticut
512 municipality, when the information disclosed is limited to (A) a list of
513 real or personal property that is or may be subject to property taxes in
514 such municipality, or (B) a list containing the name of each person who
515 is issued any license, permit or certificate which is required, under the
516 provisions of this title, to be conspicuously displayed and whose
517 address is in such municipality; (8) real estate conveyance tax return
518 information or controlling interest transfer tax return information to
519 the town clerk or an authorized representative of the chief executive
520 officer of a Connecticut municipality to which the information relates;
521 (9) estate tax returns and estate tax return information to the Probate
522 Court Administrator or to the court of probate for the district within
523 which a decedent resided at the date of the decedent's death, or within
524 which the commissioner contends that a decedent resided at the date
525 of the decedent's death or, if a decedent died a nonresident of this
526 state, in the court of probate for the district within which real estate or
527 tangible personal property of the decedent is situated, or within which
528 the commissioner contends that real estate or tangible personal
529 property of the decedent is situated; (10) returns or return information
530 to the Secretary of the Office of Policy and Management for purposes
531 of subsection (b) of section 12-7a; (11) return information to the Jury
532 Administrator, when the information disclosed is limited to the names,
533 addresses, federal Social Security numbers and dates of birth, if
534 available, of residents of this state, as defined in subdivision (1) of
535 subsection (a) of section 12-701, as amended; (12) pursuant to
536 regulations adopted by the commissioner, returns or return
537 information to any person to the extent necessary in connection with
538 the processing, storage, transmission or reproduction of such returns
539 or return information, and the programming, maintenance, repair,

540 testing or procurement of equipment, or the providing of other
 541 services, for purposes of tax administration; (13) without written
 542 request and unless the commissioner determines that disclosure would
 543 identify a confidential informant or seriously impair a civil or criminal
 544 tax investigation, returns and return information which may constitute
 545 evidence of a violation of any civil or criminal law of this state or the
 546 United States to the extent necessary to apprise the head of such
 547 agency or office charged with the responsibility of enforcing such law,
 548 in which event the head of such agency or office may disclose such
 549 return information to officers and employees of such agency or office
 550 to the extent necessary to enforce such law; (14) names and addresses
 551 of operators, as defined in section 12-407, as amended, to tourism
 552 districts, as defined in section 10-397; [and] (15) names of each licensed
 553 dealer, as defined in section 12-285, and the location of the premises
 554 covered by the dealer's license; and (16) to a tobacco product
 555 manufacturer that places funds into escrow pursuant to the provisions
 556 of subsection (a) of section 4-28i, return information of a distributor
 557 licensed under the provisions of chapter 214 or chapter 214a, provided
 558 the information disclosed is limited to information relating to such
 559 manufacturer's sales to consumers within this state, whether directly
 560 or through a distributor, dealer or similar intermediary or
 561 intermediaries, of cigarettes, as defined in section 4-28h, and further
 562 provided there is reasonable cause to believe that such manufacturer is
 563 not in compliance with section 4-28i.

564 Sec. 19. (*Effective from passage*) Section 98 of public act 03-1 of the
 565 June 30 special session is repealed.

566 Sec. 20. (*Effective July 1, 2004*) Section 65 of public act 03-1 of the June
 567 30 special session is repealed.

This act shall take effect as follows:	
Section 1	<i>July 1, 2005</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>July 1, 2004</i>

Sec. 5	<i>July 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>January 1, 2005</i>
Sec. 12	<i>October 1, 2004</i>
Sec. 13	<i>October 1, 2004</i>
Sec. 14	<i>October 1, 2004</i>
Sec. 15	<i>July 1, 2004</i>
Sec. 16	<i>from passage</i>
Sec. 17	<i>July 1, 2004</i>
Sec. 18	<i>from passage</i>
Sec. 19	<i>from passage</i>
Sec. 20	<i>July 1, 2004</i>

FIN *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note and OLR Bill Analysis

sSB-35

AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS REGARDING REVENUE, TOBACCO PRODUCT MANUFACTURERS AND TRANSFERS OF CERTAIN FUNDS.

OFA FISCAL IMPACT:

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Revenue Serv., Dept.	GF - Revenue Gain	16.6 million	13.0 million
Revenue Serv., Dept.	TF - Revenue Loss	5.0 million	13.0 million
Revenue Serv., Dept.	TF - Revenue Gain	200,000	200,000
Revenue Serv., Dept.	TF - Precludes a Revenue Loss	Up to 15 million	Up to 15 million

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	Revenue Gain	8 to 12 million	8 to 12 million

OLR SUMMARY:

This bill:

1. extends the sales and use tax on newspapers and magazines for an additional year,
2. makes permanent the current authority for 18 municipalities to charge a higher municipal real estate conveyance tax,
3. increases the tax on gasohol,
4. reduces quarterly revenue allocations to the Special Transportation Fund starting in FY 2005,
5. allocates funds for FY 2005 to the Department of Public Health's Easy Breathing Program,
6. transfers money from the Tobacco and Health Trust Fund and the

Pre-Trial Account to the General Fund, and

7. adopts additional provisions to enforce the tobacco settlement agreement between the state and tobacco manufacturers.

EFFECTIVE DATE: Various, see below.

§§ 1 & 19—SALES TAX EXEMPTION FOR NEWSPAPERS AND MAGAZINES

OFA Fiscal Impact:

Delaying the sales and use tax exemption for newspapers and magazines, until July 1, 2005, is anticipated to result in a General Fund revenue gain of \$10.0 million in FY 05.

OLR Analysis

This bill exempts newspaper and magazine subscription sales from the 6% sales and use tax starting July 1, 2005, thus maintaining the tax on such sales for an additional year. Under current law, a tax exemption for such sales is scheduled to take effect on July 1, 2004.

EFFECTIVE DATE: July 1, 2005

§ 2—MUNICIPAL REAL ESTATE CONVEYANCE TAX

OFA Fiscal Impact:

The provision would result in a revenue gain (compared to current law) of approximately \$8 to \$12 million per year if all 18 towns elected to continue or impose the additional .25% tax.

Based on a recent survey, 14 towns (Bloomfield, Bridgeport, East Hartford, Groton, Hamden, Hartford, Meridian, Middletown, New Britain, New London, Norwalk, Norwich, Waterbury, Windham) currently impose the optional .25% tax while the remaining 4 towns (Bristol, New Haven, Southington, and Stamford) do not impose the optional .25% tax.

OLR Analysis

The bill makes permanent a law that gives 18 towns the option of adding 0.25% to the municipal real estate conveyance tax rate. The option is currently scheduled to expire on June 30, 2004.

Under current law, the basic municipal real estate conveyance tax for all towns is 0.25% of the sale price until June 30, 2004. Under both current law and the bill, the basic rate is scheduled to drop to 0.11% on July 1, 2004. Thus, the bill reduces the total municipal real estate conveyance tax in those towns opting for the additional tax from 0.5% to 0.36% of the sales price.

The towns eligible to exercise the option of adding a quarter point to their real estate conveyance tax rate are (1) the 17-targeted investment communities and (2) any town that has a manufacturing plant that qualifies for enterprise zone benefits. The following towns are eligible: Bloomfield, Bridgeport, Bristol, East Hartford, Groton, Hamden, Hartford, Meriden, Middletown, New Britain, New Haven, New London, Norwalk, Norwich, Southington, Stamford, Waterbury, and Windham.

EFFECTIVE DATE: Upon passage

§ 3—GASOHOL TAX

OFA Fiscal Impact:

This section is anticipated to result in a revenue gain to the Special Transportation Fund of approximately \$200,000 per year as a result of increasing the motor fuels tax on gasohol tax from 24 to 25-cents per gallon.

Additionally, the provision will preclude a potential revenue loss to the Special Transportation Fund of up to \$15 million per year. When the state eliminated the use of MTBE, beginning on January 1, 2004, gasoline started to be formulated using ethanol. Gasoline containing at least 10% ethanol is subject to the 24-cent per gallon gasohol tax instead of the 25-cent per gallon gasoline tax. An analysis of motor fuel taxes remitted since January 2004 does not suggest that gasoline distributors have applied the lower rate to the current formulated gasoline sold in Connecticut. Therefore, to date, the state has not experienced a reduction in motor fuel tax revenue.

OLR Analysis

The bill increases the motor fuel tax on gasohol from 24 to 25 cents per gallon as of July 1, 2004. This makes the gasohol tax the same as the gasoline tax.

EFFECTIVE DATE: Upon passage

§§ 4 & 20—REVENUE TRANSFERS TO THE SPECIAL TRANSPORTATION FUND

OFA Fiscal Impact:

This section will result in a revenue gain to the General fund of \$5 million in FY 05 and \$13 million per year in FY 06 and each year thereafter. There will also be a corresponding revenue loss to the Special Transportation Fund of \$5 million in FY 05 and \$13 million in FY 06 and each year thereafter.

OLR Analysis

The bill reduces quarterly allocations of motor fuel tax revenue to the Special Transportation Fund (STF) starting in FY 2005. It also eliminates special provisions on STF revenue transfers established in the 2003 budget act and makes other special provisions of the 2003 deficit reduction and budget acts permanent (see Table 1).

TABLE 1: QUARTERLY STF REVENUE ALLOCATIONS
(millions)

<i>Citation</i>	<i>FY</i>	<i>Current</i>	<i>Bill</i>
PA 03-2 § 36	2003	0	Same
PA 03-1, June 30 Special Session, § 65 (a)	2004	\$2.625	Same
PA 03-1, June 30 Special Session, § 65 (b)	2005	3.25	2.0
CGS §13b-61a	2006 and after	5.25	2.0

EFFECTIVE DATE: July 1, 2004

§ 5—TOBACCO AND HEALTH TRUST FUND REVENUE TRANSFER

OFA Fiscal Impact:

The provision is anticipated to result in on-time revenue gain to the

General Fund of approximately \$117,000 in FY 05.

The current balance in the Tobacco Health Trust Fund is approximately \$617,000.

OLR Analysis

For FY 2005, the bill requires \$500,000 of the balance in the Tobacco and Health Trust Fund to be transferred to the Department of Public Health's Children's Health Initiative Account to continue to support the Easy Breathing Program. It transfers the fund's remaining balance to the General Fund.

The 2003 budget act already transfers \$12 million from the Tobacco and Health Trust Fund to the General Fund for FY 2005. The money in the trust fund comes from tobacco company lawsuit settlement payments.

EFFECTIVE DATE: July 1, 2004

§ 6—PRE-TRIAL ACCOUNT REVENUE TRANSFER

OFA Fiscal Impact:

The provision will result in a one-time General Fund revenue gain of \$1.5 million in FY 05.

OLR Analysis

For FY 2005, the bill transfers \$1.5 million from the Pre-Trial Account to the General Fund. The account is funded in part by fees paid by people participating in state pre-trial alcohol or drug education programs after being charged with (1) driving under the influence of liquor or drugs or with a blood alcohol level above the legal limit or (2) possession of illegal drugs or sale or possession of drug paraphernalia.

EFFECTIVE DATE: July 1, 2004

§§ 7-18—TOBACCO SETTLEMENT PROVISIONS

OFA Fiscal Impact:

To the extent that the provisions strengthen the current laws regarding

cigarette manufacturers who are not party to the Master Settlement Agreement (MSA), it will help to ensure that manufacturers participating in the agreement will not withhold future tobacco settlements payments to Connecticut.

The MSA signed between the participating states and cigarette manufacturers contains assessments against a state's tobacco settlement payments if a state does not enact and enforce legislation concerning cigarette manufacturers that are not party to the MSA.

Section 17 appropriates \$100,000 per year to the Department of Revenue Services and \$25,000 per year to the Attorney General's Office from the Tobacco Settlement Fund for administrative costs associated with enforcing provisions relating to the tobacco settlement agreement.

OLR Analysis

ENFORCEMENT

All Tobacco Product Manufacturers (§§ 7, 8)

By law, tobacco product manufacturers that sell cigarettes in Connecticut must either (1) enter into, and perform financial obligations under, the master settlement agreement between Connecticut and four leading tobacco companies or (2) pay into a qualified escrow account a specified amount for each cigarette they sell in the state. Tobacco companies that choose the former option are considered to be "participating manufacturers" and those that choose the latter are "nonparticipating manufacturers."

The bill requires manufacturers whose cigarettes are directly or indirectly sold in Connecticut to certify, under penalty of false statement, to the Department of Revenue Services (DRS) commissioner and the attorney general by April 30 every year that, as of the certification date, they are either participating in the master settlement agreement or complying with escrow requirements for nonparticipating manufacturers. (Making a false statement on a document other than a certified prevailing wage law payroll is a class A misdemeanor punishable by a fine of up to \$2,000, up to one year in jail, or both.)

Each manufacturer must include with its certification a list of its brand families. Under the bill, a “brand family” is all styles of cigarettes (such as menthol, lights, kings, or 100s) sold under the same trademark. A brand family includes cigarettes identified with a previously known brand through such things as the same or similar brand names, trademarks, logos, symbols, mottos, selling messages, or recognizable color patterns.

A manufacturer can include a brand family in its certification only if its cigarettes were used to calculate either its master settlement agreement payment for the relevant year or payments to its escrow fund. Under the bill, the state retains the right to maintain that a particular brand family belongs to another manufacturer for purposes of calculating master settlement or escrow fund payments.

Thirty days before adding to or modifying its brand families, a manufacturer must update its list by executing and delivering a supplemental certification to the commissioner and the attorney general.

EFFECTIVE DATE: October 1, 2004

Nonparticipating Manufacturers (§ 8(c), (d))

A nonparticipating manufacturer’s certification must also include:

1. a list of its brand families and the number of units of each sold in Connecticut in the preceding calendar year, with an asterisk marking any no longer being sold here;
2. a list of its brand families sold in the state during the current year;
3. the name and address of any other company manufacturing the brand families in the preceding or current year;
4. the name, address, and telephone number of the financial institution where it has established the qualified escrow fund;
5. the account numbers for the fund and for the Connecticut subaccount;
6. the amount placed in the fund for cigarettes sold in Connecticut during the preceding calendar year, with the date and amount of each deposit and whatever confirming evidence or verification the commissioner or attorney general considers necessary; and
7. the amounts and dates of any withdrawals or transfers it made from the escrow fund or from any other qualified escrow fund that

it ever paid into under the state's tobacco settlement law and regulations.

The bill also requires each nonparticipating manufacturer to certify annually that it:

1. is either registered to do business in Connecticut or has appointed an agent for service of process here and notified the commissioner and the attorney general of the agent's name, telephone number, and address;
2. has established and maintains a qualified escrow fund and executed a qualified escrow agreement governing the fund; and
3. complies with the state's tobacco settlement law, the bill, and their regulations.

Manufacturers must keep all records and other information they relied on for their certifications for five years, unless the law requires them to keep records longer.

EFFECTIVE DATE: October 1, 2004

DRS Directory (§ 9(a), (e))

The bill requires the DRS commissioner, by July 1, 2005, to develop and make available to the public on the DRS website and in other appropriate forms, a directory of (1) manufacturers that have provided current and accurate certifications and (2) all brand families listed in those certifications. The commissioner cannot list the name and brand families of any manufacturer that has not:

1. filed the required certification or whose certification the commissioner determines does not meet the bill's requirements;
2. made all required escrow payments to qualified funds governed by approved escrow agreements for any period or brand family, whether or not the manufacturer listed the brand family on its certification;
3. fully satisfied any outstanding final judgment, including interest, for violating the tobacco settlement law.

The commissioner's determination not to include a brand family or manufacturer in, or to remove either from, her directory is subject to the same appeal hearings available to those aggrieved by any of the

commissioner's other actions relating to cigarette taxes and licensing. The commissioner must update the directory as needed.

EFFECTIVE DATE: October 1, 2004

Prohibitions And Penalties (§§ 9,12,13)

The bill makes it illegal for anyone to:

1. put Connecticut tax stamps on cigarettes whose manufacturer or brand family is not listed in the DRS directory or
2. sell, offer to sell, distribute, or possess for sale unlisted cigarettes in Connecticut.

Under the bill, it is a class A misdemeanor and an unfair and deceptive trade practice to violate these prohibitions. A class A misdemeanor is punishable by a fine of up to \$2,000, up to one year in jail, or both.

The bill allows the DRS commissioner, in addition to other criminal or civil penalties, after a hearing and using the regular procedure for revoking or suspending a cigarette distributor's or dealer's license, to revoke or suspend the license of a tax stamper (i.e., anyone allowed to put Connecticut tax stamps on cigarettes) who violates these prohibitions and any regulations adopted under the bill. Each stamp affixed to, and each offer to sell, cigarettes from an unlisted brand family or manufacturer is a separate violation. The bill also allows the commissioner to levy a maximum civil penalty of 500% of the retail value of the cigarettes or \$5,000, whichever is greater.

It makes cigarettes sold or offered for sale in violation of its provisions contraband and applies existing confiscation, search, and forfeiture procedures to such cigarettes. It requires cigarettes seized and not sold as contraband to be destroyed.

The bill allows the attorney general, on the DRS commissioner's behalf, to ask for an injunction (1) against actual or threatened violations of the sale prohibitions or the stamper reporting and record keeping requirements and (2) to compel stampers to comply with these provisions.

The bill prohibits the commissioner from issuing or renewing a stamper's license if he does not certify, in writing and under penalty of false statement, that he will comply with the bill.

When it prevails in any action to enforce the bill, the state is entitled to its costs for investigation, for bringing the action, and for expert witness and reasonable attorneys' fees. The court must order anyone it determines has violated the bill to pay to the state any profits, gains, gross receipts, or other benefits it received from the violation. Unless expressly provided, the bill's remedies and penalties are cumulative both with each other and with those available under other state laws.

EFFECTIVE DATE: October 1, 2004

Tax Stamper Reports (§ 11(a))

The bill requires stampers to give the DRS commissioner, within 25 days after the end of every month and more often if the commissioner directs, information she requires. The information must include a list, by brand family, of the total number of cigarettes, or an equivalent count for roll-your-own tobacco (under the tobacco settlement law, each 0.09 ounces of such tobacco equals one cigarette), on which the stamper put tax stamps. The bill requires stampers to maintain for five years, and make available to the commissioner, sales documentation and other information they rely on for the report.

The bill requires each stamper to give the commissioner an e-mail address and to update it as needed.

EFFECTIVE DATE: January 1, 2005

Additional Information And Reporting (§ 11(c), (d))

The bill allows the attorney general to require any nonparticipating manufacturer, at any time, to provide proof of how much money is in its qualified escrow fund, including the amount excluding interest, and the amount and date of each deposit and withdrawal. It requires the financial institution where the fund is established to provide the proof to the manufacturer.

In addition to the specified information, the bill allows the DRS commissioner to require a stamper or manufacturer covered by the

state tobacco settlement law to submit other information, including samples of each brand family's packaging or labels, needed to allow the attorney general to determine a manufacturer's compliance with the bill.

EFFECTIVE DATE: January 1, 2005

Disclosure And Information Sharing (§ 11(b))

The bill allows the commissioner to disclose to the attorney general any information she receives under the bill that he requests to determine compliance and to enforce its provisions. It requires the commissioner and the attorney general to share information they receive with each other and allows them to share it with other state, federal, and local agencies, but only to enforce the bill or Connecticut's or other states' tobacco settlement laws.

EFFECTIVE DATE: January 1, 2005

Quarterly Escrow Payments (§ 11(e))

The bill allows the DRS commissioner to adopt regulations requiring nonparticipating manufacturers to make escrow deposits quarterly in the same year that the sales covered by the payment occur. It allows the commissioner to require information to determine whether the quarterly payments are adequate.

EFFECTIVE DATE: January 1, 2005

Agent For Service Of Process Requirements (§ 10)

As a condition of having its brand families listed in the DRS directory, the bill requires nonparticipating manufacturers not registered to do business here to appoint and maintain a Connecticut agent for receiving notice of any process, action, or proceeding against it under the bill or under the state tobacco settlement law or its regulations. Any process served on the agent constitutes legal and valid service on the nonparticipating manufacturer. The manufacturer must give the attorney general and the DRS commissioner the agent's name, address, and telephone number, along with satisfactory proof of his appointment and availability.

A nonparticipating manufacturer must give the commissioner and the attorney general 30 calendar days notice before terminating its agent's authority and proof that it appointed a new agent at least five days before ending its existing agent's appointment. If its agent resigns, the manufacturer must notify the officials and provide proof of a new appointment no more than five days later.

The bill requires the secretary of the state to be the agent for service of process for any nonparticipating manufacturer whose products are sold in Connecticut but who has not appointed an agent. Proceedings against such a manufacturer may be brought by serving process on the secretary, but the secretary's appointment does not satisfy the agent appointment requirement for having the manufacturer's brand families listed in the DRS directory.

EFFECTIVE DATE: October 1, 2004

Severability And Relationship To Tobacco Settlement Law (§ 14)

If a court finds that any of the foregoing enforcement provisions conflict with those of the state tobacco settlement law, the tobacco settlement law prevails. The bill also invalidates any of its parts that cause the state tobacco settlement law to lose its status as a qualifying or model statute under the tobacco master settlement agreement and specifies that any invalidated parts do not affect the validity of the remainder of the bill.

EFFECTIVE DATE: October 1, 2004

EXCESS ESCROW ACCOUNT REFUNDS (§§ 15, 16)

The bill changes the conditions for refunding excess escrow account payments to nonparticipating manufacturers. Under current law, funds may be released from an escrow account if the manufacturer shows that the amount it had to place in escrow in any year was more than Connecticut's share of the total payment it would have had to make for the year if it had participated in the settlement agreement, before any required adjustments or offsets. The bill instead allows release only if the manufacturer shows that the amount it had to pay on account of its Connecticut sales was greater than all its required master settlement agreement payments would have been, after final determination of all adjustments.

It invalidates the change if it is found unconstitutional by an appropriate court.

EFFECTIVE DATE: July 1, 2004 for the change in escrow refund conditions; upon passage for the provision invalidating the change if a court finds it unconstitutional.

FUNDING (§ 17)

Starting with FY 2005, the bill appropriates \$100,000 annually to DRS and \$25,000 annually to the Attorney General's Office from the Tobacco Settlement Fund. The funds must be used to enforce the bill and the state tobacco settlement law.

EFFECTIVE DATE: July 1, 2004

DISCLOSURE OF DISTRIBUTOR TAX INFORMATION (§ 18)

The bill allows the DRS commissioner to disclose certain information from a licensed cigarette distributor's cigarette tax returns to a nonparticipating manufacturer. The commissioner may disclose information only when (1) it relates to sales of the manufacturer's cigarettes to consumers in Connecticut, either directly or through a cigarette distributor, dealer, or similar intermediary and (2) there is reasonable cause to believe that the manufacturer is not complying with escrow payment requirements.

EFFECTIVE DATE: Upon passage

BACKGROUND

Cigarette Licensees

Anyone wishing to sell cigarettes in the state must have a license from DRS. There are two kinds of licenses. Cigarette manufacturers, wholesalers, and large-scale cigarette retailers (those who operate five or more retail outlets or 25 or more cigarette vending machines) are licensed as "distributors." All other sellers are considered "dealers."

Model Statute

The state tobacco settlement law is the “model statute” required under the tobacco master settlement agreement. States without model statutes have their allotments from the settlement reduced by up to 65%.

Unfair and Deceptive Trade Practice

The Connecticut Unfair Trade Practices Act (CUTPA) prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the Department of Consumer Protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to bring suit. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violating a restraining order.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 24 Nay 21